REMARKS

Claims 7-10 are pending in this application. By this amendment, claim 7 has been amended and claims 8-10 have been added. No new matter has been added by this amendment.

Claim 7 stands rejected under 35 USC 102(b) over Weinstein ('958). Claim 7 has been amended, obviating this rejection. As amended, claim 7 recites that the source of electromagnetic radiation is at least one light emitting diode. This feature is a substantial departure from the prior art of record, as the prior art relies on high-energy radiation sources (lasers, in particular) to activate the topical agents. The prior art has a significant drawback in that the use of high-energy radiation sources limits the amount of time that the agent can be exposed to the radiation source, due to the possibility of causing thermal or other types of injury to the mammalian tissue being treated. For example, see the paragraph in applicant's specification bridging pages 10 and 11.

The system taught by Weinstein relies on the high-energy output of sources such as lasers to activate the disclosed photoactive agents. For this reason, one of ordinary skill in the art would not have been motivated to substitute a low-energy device such as an LED for the laser of Weinstein's system with any reasonable expectation of success. Moreover, Weinstein does not disclose each and every limitation of claim 7, as amended, since Weinstein does not teach, disclose, or suggest the use of LED's. The rejection of claim 7 over Weinstein should, therefore, be withdrawn.

Claim 7 is also rejected under 35 USC 102(e) over Robinson ('609). Robinson teaches a class of compounds light-activated furocoumarin compounds for treating skin disorders. Robinson does not teach the type of light that is preferred for activating the compounds, merely suggesting that in a preferred embodiment the compounds are activated with a first wavelength

in the ultraviolet region of the spectrum and a second wavelength in the visible or infra-red region of the spectrum. Robinson is also silent as to preferred light intensities, pulse durations, etc. Although it is stated in paragraph 2 of the Office Action that Robinson teaches the use of lasers, no such specific disclosure is provided beyond the suggestion that the disclosed furocoumarin compounds are typically activated by lasers.

Since Robinson, therefore, does not teach the use of LED's to activate topical agents for use in treating skin disorders, the rejection under 35 USC 102(e) should be withdrawn. Nowhere does Robinson teach, disclose, or suggest that low-energy light sources would be suitable or desirable for this type of treatment. Moreoever, Robinson does not teach, as required by original claim 7, "selecting at least one of a photoactive agent and a photosensitizing agent". Robinson teaches a specific class of compounds, thereby precluding the step of "selecting" among photoactive compounds and photosensitive compounds.

For these reasons, all claims are now in condition for allowance and a notice thereof is earnestly solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions

for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952**, referencing Docket No. **509582000211**.

Dated: June 15, 2005

Respectfully submitted,

By _____

Wayne C. Jaeschke, Jr.
Registration No.: 38,503
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 300
McLean, Virginia 22102
(703) 760-7756